

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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PHILIP SHARPE,

Plaintiff,

vs.

9:04-CV-220

GLENN GOORD, *et al.*,

Defendants.

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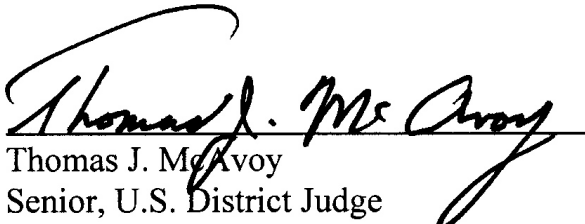
THOMAS J. McAVOY,  
Senior United States District Judge

**DECISION & ORDER**

This civil action was referred to the Hon. Gustave J. Di Bianco, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). No objections to the Report -Recommendation dated February 16, 2006 have been filed, and, in fact, Plaintiff filed a letter on March 8, 2006 indicating that he had no objections to the Report-Recommendation. Furthermore, after examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, this Court adopts the Report -Recommendation for the reasons stated therein.

It is therefore, **ORDERED** that Defendants' motion for dismissal (dkt. # 28) is **GRANTED IN PART AND DENIED IN PART**. The motion is **granted** inasmuch as the claims against Defendants GOORD, WRIGHT, AND SPITZER are **dismissed without prejudice** pursuant to Fed. R. Civ. P. 12(b)(6) and 28 U.S.C. § 1915(e)(2)(B)(ii), and the motion is **in all other respects denied**.

DATED: March 24, 2006

  
Thomas J. McAvoy  
Senior, U.S. District Judge